

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-20-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The medical/surgical, pharmacy, medical/surgery supplies, laboratory, diagnostic x-ray, OR services, anesthesia, physical therapy, blood/store products, emergency room, pulmonary function tests and recovery room services were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 7<sup>th</sup> day of January 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 04-26-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 7th day of January 2004.

Judy Bruce, Director  
Medical Dispute Resolution  
Medical Review Division  
JB/dlh

December 17, 2003  
Amended January 6, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

MDR Tracking #: M5-04-0513-01  
IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified and specialized in Orthopedic Surgery. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ was a 31-year-old female who sustained an injury to her lower back and right wrist while she was working doing cleaning duties and cooking. She slipped on a wet greasy floor, falling backwards and hitting in a semi-seated position. She noted pain in the lower back with radiation into both legs, but worse on the left side. She also had some pain in the wrist. The x-rays were negative for fracture. She continued to have left leg pain and had complaints that were sometimes felt to be out of proportion to the injury.

She was treated by a number of physicians. She received chiropractic treatment, pain management treatment, epidural steroid injections, medication for anti-inflammatory condition along with pain pills and muscle relaxants. However, no treatment gave her any real significant degree of relief. Several orthopedic surgeons saw her and no real significant diagnosis was made on her spine. \_\_\_ saw her as a designated doctor on March 21, 2002 and he actually found nothing wrong with her and felt that she had a possibility of secondary pain issues. He did find multiple positive Waddell's signs. Throughout his examination of this patient, he found inconsistent findings including stocking-like anesthesia and straight leg raising positive at 20 degrees in the supine position and positive at 90 degrees in the sitting position. He felt that she had a 0% whole person impairment rating.

\_\_\_ saw her on June 27, 2002. He is a board certified orthopedist and he did not find any significant pathology. She was referred to \_\_\_, an orthopedic surgeon, and he continued to treat her conservatively. She then saw \_\_\_ who felt a laminectomy at the L4/5 and L5/S1 levels was indicated. She did have some degenerative changes noted on the MRI at those two levels. He therefore did a laminectomy and disc removal on her in March of 2003. Unfortunately, she developed a dural leak and some degree of infection.

She was readmitted to the hospital on 4/6/03 with a dural leak and infection. She was treated with antibiotics and stayed in the hospital about one week. She then was discharged again, and returned to the hospital on April 26, 2003 with drainage, low-grade fever, positive wound cultures, headaches, nausea and again she was admitted from the emergency room on that date. After admission to the emergency room, a consultation with a neurosurgeon, \_\_\_, was obtained and \_\_\_ basically took over her care after that point in time.

On May 8, 2003 it was necessary that he do an operative procedure to redo the disc removal at the L5/S1 level and clean out the wound along with closing and grafting the cerebral spinal fluid leak in the dura. This was carried out and apparently she was continued on antibiotics for some time. She did not develop any more complications after \_\_\_ did that procedure. Her current status is unknown.

#### DISPUTED SERVICES

Under dispute is the medical necessity of medical/surgical services, pharmacy, medical/surgical supplies, laboratory diagnostics, x-ray, anesthesia, operating room services, blood, emergency room services, pulmonary function services, and physical therapy and recovery room services.

#### DECISION

The reviewer disagrees with the prior adverse determination.

## BASIS FOR THE DECISION

With regards to this case, a dispute has arisen regarding the hospitalization that occurred on April 26, 2003 when the patient came back to the emergency room draining cerebral spinal fluid with an infected wound, low grade fever, headaches, nausea and vomiting. This, of course, was an extremely critical situation with a patient in this condition. There is no question that the patient required immediate hospitalization and treatment. The reason for the immediate hospitalization and treatment was the dural leak and the wound infection which was a result of the back surgery performed in March of 2003, a surgery that was done for treatment of the back injury that occurred on \_\_\_\_.

All of the disputed services were necessary for treatment of this patient, and the reason for the treatment was the injury of \_\_\_\_\_. This patient's need for this hospitalization was due to complications that developed as a result of her back surgery. Since her back surgery was performed for treatment of her work-related injury, the treatment of the complications would also be a part of that treatment.

\_\_\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,